

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

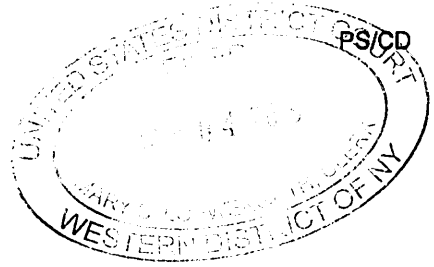
DONALD J. ENGLERT, II,

Petitioner,

-v-

MICHAEL COLVIN, Superintendent of
Five Points Correctional Facility,

Respondent.



18-CV-6871 CJS
ORDER

Pro se Petitioner Donald J. Englert, II ("Petitioner"), an inmate at the Five Points Correctional Facility, has submitted to this Court a Petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Docket Item 1. As set forth more precisely in the Petition, Petitioner alleges that he was convicted in Monroe County Court in violation of his constitutional rights. Petitioner has paid the filing fee.

ORDER

Accordingly, it is hereby

ORDERED in accordance with Rules 4 and 5 of the Rules Governing Section 2254 Cases in the United States District Courts, that Respondent shall file and serve an **Answer** responding to the allegations in the Petition within **90 days of the date of this Order**. The Answer shall state whether a trial or any pre-trial or post-trial evidentiary proceeding was conducted. If so, Respondent shall provide the Court with a transcript of the relevant proceedings, together with any records and documents relating to them, so that the materials can be filed in the official record of this case; and it is further

ORDERED that, in addition to Respondent's Answer, Respondent shall file and serve, within **90 days of the date of this Order**, a memorandum of law addressing each of the issues raised in the Petition and including citations to supporting authority; and it is further

ORDERED that within **30 days of the date this Order**, Respondent may file a motion for a more definite statement or a motion to dismiss the Petition, accompanied by appropriate exhibits demonstrating that an Answer to the Petition is unnecessary. The timely filing of such motion shall extend the time for filing an Answer by **14 days**. This deadline will not be extended beyond 14 days, however, even if the Court does not act on Respondent's motion within that time; and it is further

ORDERED that within **30 days of the date that this Order is served** upon the custodian of the records, the Clerk of Court or any other official having custody of the records of the proceedings in Monroe County Court leading to the conviction shall submit such records to Respondent or Respondent's attorney; and it is further

ORDERED that if Petitioner previously appealed from the judgment of conviction or from an adverse judgment or order in a post-conviction proceeding, Respondent must provide the Court with a copy of the briefs, the record on appeal, and any opinions of the appellate courts so that such documents can be filed in the official record of this case; and it is further

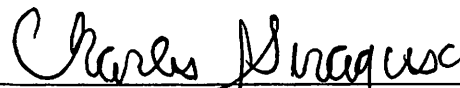
ORDERED that Petitioner shall have **30 days after his receipt of Respondent's Answer or other pleading** to file a written reply; and it is further

ORDERED that the Clerk of Court shall electronically serve a copy of the Petition, together with a copy of this order, via a Notice of Electronic Filing to Alyson Gill

<Alyson.Gill@ag.ny.gov>, Arlene Roces <Arlene.Roces@ag.ny.gov>, and Laura Stockmyer <laura.stockmyer@ag.ny.gov> of the Office of the Attorney General, Federal Habeas Unit.

PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS AND CORRESPONDENCE TO THE ATTORNEY(S) APPEARING FOR RESPONDENT.

SO ORDERED.



Charles J. Siragusa
United States District Judge

DATED: JAN. 4, ²⁰¹⁹~~2018~~ *CS*
Rochester, NY